

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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JEFFREY FLOWERS,

Petitioner,

9:20-cv-997 (BKS/ATB)

v.

JOSEPH NOETH,

Respondent.

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**Appearances:**

*Petitioner pro se:*

Jeffrey Flowers

16-A-4430

Attica Correctional Facility

Box 149

Attica, NY 14011

*For Respondent:*

Letitia James

Attorney General for the State of New York

Dennis A. Rambaud

Michelle Elaine Maerov

28 Liberty Street

New York, NY 10005

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

On August 28, 2020, Petitioner pro se Jeffrey Flowers filed this petition under 28 U.S.C. § 2254 challenging a judgment of conviction, following a jury trial, of two counts of rape in the first degree, one count of rape in the third degree, and two counts of endangering the welfare of a child. (Dkt. No. 1). On March 15, 2021, Respondent filed an answer, accompanied by the related state court records. (Dkt. Nos. 16-18). Petitioner did not file a traverse. This matter was assigned to United States Magistrate Judge Andrew T. Baxter who, on July 27, 2021, issued a Report-

Recommendation recommending that the petition be denied and dismissed and that no certificate of appealability be issued. (Dkt. No. 20). Magistrate Judge Baxter advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (*Id.*, at 39).

Although Plaintiff was granted an extension of time, to September 9, 2021, to file objections, no objections to the Report-Recommendation were filed. (Dkt. Nos. 21, 22). As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is

**ORDERED** that the Report-Recommendation (Dkt. No. 20) is **ADOPTED** in its entirety; and it is further

**ORDERED** that the Petition is **DENIED** and **DISMISSED**; and it is further

**ORDERED**, that no certificate of appealability (“COA”) is issued because Petitioner has failed to make “a substantial showing of the denial of a constitutional right” as required by 28 U.S.C. § 2253(c)(2). Any further request for a COA must be addressed to the Court of Appeals (Fed. R. App. P. 22(b)); and it is further

**ORDERED** that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: September 20, 2021  
Syracuse, New York

Brenda K. Sannes  
Brenda K. Sannes  
U.S. District Judge